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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/744,622 | 05/07/2002 | Nicholas Bachynsky | HO-P01615W00 | 1907 |
| David L. Fox FULBRIGHT & JAWORSKI L.L.P. 1301 McKinney Suite 5100 Houston, TX 77010-3095 | | | | |
| EXAMINER | | | | |
| ROYDS, LESLIE A | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 1614 | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|
| 09/744,622 | 5/7/2002 | BACHYNSKY ET AL. | HO-P01615W00 |

EXAMINER

Leslie A. Royds

ART UNIT

PAPER

1614

20080324

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

NOTICE OF NON-RESPONSIVE AMENDMENT

Applicant's amendments and remarks filed December 12, 2007 have been received and entered into the present application. However, Applicant's amendments to the claims fail to comply with the requirements of 37 C.F.R. 1.121[c].

37 C.F.R. 1.121[c] states: "Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled...All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended", and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletions of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived."

Specifically, Applicant's amendments to claims 109 and 116 clearly fail to comply with the provisions of 37 C.F.R. 1.121[c] for the following reasons: the text of claims 109 and 116 presents the limitation "or diagnose" in line 5 of each claim as if it were previously pending in the immediately prior version of the claims. However, the supplemental claim listing of August 31, 2006 removed such a limitation from each of these claims. In other words, this limitation "or diagnose" in each of claims 109 or 116 was not previously pending. Accordingly, since this limitation now appears in claims 109 and 116 as if it were previously pending in the immediately prior version of the claims, it is unclear if Applicant intends for such a limitation to, in fact, be removed from the claims or if the limitation has been reinstituted into the claim and is now pending. Applicant is reminded that, should he wish to reinstitute such a limitation into the claims, a newly added limitation must be underlined in accordance with 37 C.F.R. 1.121[c].

Applicant is required, in reply to this notice, to submit a complete listing of all pending claims properly reflecting ALL ADDITIONS and DELETIONS made to the text of the claims relative to the immediately prior version of the claims in accordance with the provisions of 37 C.F.R. 1.121[c]. For Applicant's reference, the marked up text should be presented relative to the claim listing of August 31, 2006.

Since the above-mentioned response appears to be a bona fide attempt to reply, Applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction, as well as a proper response to the previous Office Action, in order to avoid abandonment. Extensions of this time period under 37 C.F.R. 1.136(a) are available.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Leslie A. Royds, whose telephone number is (571)-272-6096. The Examiner can normally be reached Monday through Friday, 9:00 AM to 5:30 PM. If attempts to reach the Examiner are unsuccessful, the Examiner's supervisor, Ardin H. Marschel, can be reached on (571)-272-0718. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

/Ardin Marschel/
Supervisory Patent Examiner, Art Unit 1614

/Leslie A. Royds/
Patent Examiner, Art Unit 1614